

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEBRA McEWEN,

Plaintiff,

v.

CASE NO. 07-12259
HON. LAWRENCE P. ZATKOFF

TECSTAR, L.P. and
SUN LIFE ASSURANCE CO. OF CANADA,

Defendants.

ORDER DENYING DEFENDANT SUN LIFE'S MOTION FOR RECONSIDERATION

This matter comes before the Court on Defendant Sun Life's Motion for Reconsideration, filed on February 28, 2008 (dkt 32). Sun Life challenges the Court's February 13, 2008, Opinion and Order granting Plaintiff's Motion for Summary Judgment and remanding the case to the plan administrator for further proceedings. Pursuant to E.D. Mich. L.R. 7.1(g)(2), no response is permitted.

Local Rule 7.1(g)(3) governs motions for reconsideration, stating that "the court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court, either expressly or by reasonable implication." E.D. Mich. L.R. 7.1(g)(3). The same subsection further states, "the movant must not only demonstrate a palpable defect by which the court and the parties have been misled but also show that correcting the defect will result in a different disposition of the case." *Id.*

Sun Life alleges that this Court failed to consider the entire definition of "Totally Disabled" when rendering its Opinion and Order. Under the policy, an insured must prove that she is "unable to perform all of the material and substantial duties of [her] own occupation and is not engaged in any occupation for wage or profit." Sun Life maintains that the Court focused only on the material-

and-substantial portion of the definition, ignoring the wage-or-profit requirement. This, according to Sun Life, constitutes a palpable defect and warrants reconsideration and reversal. The Court had access to and cited the full definition of “Total Disability” in its Opinion and Order. Thus, any defect, even if palpable, did not mislead the Court. Therefore, Sun Life’s Motion for Reconsideration is HEREBY DENIED.

IT IS SO ORDERED.

s/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: March 6, 2008

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on March 6, 2008.

s/Marie E. Verlinde
Case Manager
(810) 984-3290